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OFFICE OF REGIONAL COUNSEL
EPA - REGION X

February 13, 1987

copy to Matata, Watson,
Boys, Cummings
on 2/18/87
MLC

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FEB 17 1987

UNITED STATES ATTORNEY
Seattle, WashingtonJackson L. Fox, Esq.
Office of U.S. Attorney
3600 SeaFirst Fifth Avenue Plaza
800 Fifth Avenue
Seattle, Washington 98104Re: U.S. and State v. Marine Power & Equipment Co.,
Inc. and WFI Industries, Inc. - Cause No. C85-382R

Dear Jack:

This letter is a follow-up to our combination get-acquainted/progress report telephone conversation on Wednesday. It was my understanding that the EPA is conducting studies to determine how much of the lake and river bottoms need to be cleaned; how much of that is the responsibility of Marine Power; and what needs to be done. You further indicated that cleaning was the chief interest of the EPA in this matter since the company is bankrupt (\$186 million in debt, not counting interest accrual) so that pursuit of a money judgment would be fruitless. Finally, you asked if I could provide you with some idea of whether or not MPE would be willing to simply dredge the drydock areas so you could bypass the need for extensive EPA studies.

I have discussed that question with our managers, who confirm my suspicion that it would be impossible to get estimates on costs without knowing what it is we are responsible for cleaning. That would tell us how deep we have to dredge, how much material will be taken up and where we can dispose of it, all critical factors for a contractor to take into account for his estimate. For example, the cost rises astronomically if the stuff has to be taken to Arlington for disposal.

To get a rough figure, I asked what the cost would be if we were told to dredge a thin crust (about 12") in a narrow area around and underneath the drydocks for disposal at 4-mile rock - the cheapest job I could imagine. I was told that the direct costs would run to \$500,000. We must also, however, consider the indirect costs. Among these are included the costs of moving each of the floating drydocks, the costs of obtaining a permit for moving the ARD and finding alternative moorage in Lake Union, the cost of lifting various pieces of the synchrolift in order to get under a particular spot (the synchrolift is not movable), and the

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Mr. Jackson L. Fox
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cost of shutting down the use of the drydocks during the time it takes to dredge.

In other words, it is clear that this is going to be an expensive operation which, for the time being, is far beyond the company's resources. Before we can find out just how far beyond, we need to know what it is you think needs to be done.

Nevertheless, I think it is still possible to settle this matter without litigation. Indeed, a trial would be a pure waste of time, energy, and money since the strictest clean-up order, coupled with a tough monetary penalty, would only be a pyrrhic victory considering what it would surely do to the company's already precarious financial position. We are already operating under a partial consent decree imposing severe conditions on our drydock management practices which, I believe, was your primary purpose for filing suit. With the proper information, we should be able to come to a similar agreement for clean-up, if that turns out to be necessary.

To that end, I am tracking down the maintenance dredging permit which we discussed (which the company obtained for the synchrolift, but never needed to use), as well as some history of the soundings we have regularly taken at both yards for several years. When I have that information, and you have some idea of what the EPA thinks is necessary, I would be happy to meet with you at your convenience to discuss a possible settlement.

Sincerely,

WFI INDUSTRIES, INC.

A handwritten signature in cursive script that reads "Ruth A. Nelson".

Ruth A. Nelson
Associate General Counsel

RAN:js

cc: Lee Rees, Esq. - Office of Attorney General
Richard C. Woeck